


Councilmember Kathleen Patterson

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Councilmember Kathleen Patterson introduced the following bill, which was referred to the
Committee on _____.

To enact the Uniform Trust Code in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That
this act may be cited as the "Uniform Trust Act of 2001."

Sec. 2. Title 19 of the District of Columbia Code is amended:

(1) By amending the table of contents by inserting "7. Uniform Trust Code . . .
§§ 19-701.1 to 19-711.3."; and

(2) By inserting the following new chapter:

"CHAPTER 7. UNIFORM TRUST CODE.

"SUBCHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS.

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| "This chapter applies to express trusts, charitable or noncharitable, and trusts created | 17 |
| pursuant to a statute, judgment, or decree that requires the trust to be administered in the | 18 |
| manner of an express trust. | 19 |
| "§ 19-701.3. Definitions. | 20 |
| "In this chapter: | 21 |

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| "(1) "Action," with respect to an act of a trustee, includes a failure to act. | 1 |
| "(2) "Beneficiary" means a person that: | 2 |
| "(A) Has a present or future beneficial interest in a trust, vested or | 3 |
| contingent; or | 4 |
| "(B) In a capacity other than that of trustee, holds a power of | 5 |
| appointment over trust property. | 6 |
| "(3) "Charitable trust" means a trust, or portion of a trust, created for a | 7 |
| charitable purpose described in § 19-704.5(a). | 8 |
| "(4) "Conservator" means a person appointed by the court to administer the | 9 |
| estate of a minor or adult individual. | 10 |
| "(5) "Environmental law" means a federal, state, or local law, rule, regulation, or | 11 |
| ordinance relating to protection of the environment. | 12 |
| "(6) "Guardian" means a person appointed by the court, a parent, or a spouse | 13 |
| to make decisions regarding the support, care, education, health, and welfare of a minor or | 14 |
| adult individual. The term does not include a guardian ad litem. | 15 |
| "(7) "Interests of the beneficiaries" means the beneficial interests provided in the | 16 |
| terms of the trust. | 17 |
| "(8) "Jurisdiction," with respect to a geographic area, includes a State or | 18 |
| country. | 19 |
| "(9) "Person" means an individual, corporation, business trust, estate, trust, | 20 |
| partnership, limited liability company, association, joint venture, government; governmental | 21 |

subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

"(10) "Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable only upon consent of the trustee or a person holding an adverse interest.

"(11) "Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

"(12) "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

"(A) Is a distributee or permissible distributee of trust income or principal;

"(B) Would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in subparagraph (A) terminated on that date; or

"(C) Would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

"(13) "Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

"(14) "Settlor" means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution

except to the extent another person has the power to revoke or withdraw that portion.

"(15) "Spendthrift provision" means a term of a trust which restrains both voluntary and involuntary transfer of a beneficiary's interest.

"(16) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a State.

"(17) "Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

"(18) "Trust instrument" means an instrument executed by the settlor that contains terms of the trust, including any amendments thereto.

"(19) "Trustee" includes an original, additional, and successor trustee, and a cotrustee.

"§ 19-701.4. Knowledge.

"(a) Subject to subsection (b), a person has knowledge of a fact if the person:

"(1) Has actual knowledge of it;

"(2) Has received a notice or notification of it; or

"(3) From all the facts and circumstances known to the person at the time in question, has reason to know it.

"(b) An organization that conducts activities through employees has notice or

knowledge of a fact involving a trust only from the time the information was received by an employee having responsibility to act for the trust, or would have been brought to the employee's attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act for the trust and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual's regular duties or the individual knows a matter involving the trust would be materially affected by the information.

"§ 19-701.5. Default and mandatory rules.

"(a) Except as otherwise provided in the terms of the trust, this chapter governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a beneficiary.

"(b) The terms of a trust prevail over any provision of this chapter except:

"(1) The requirements for creating a trust;

"(2) The duty of a trustee to act in good faith and in accordance with the purposes of the trust;

"(3) The requirement that a trust and its terms be for the benefit of its beneficiaries;

"(4) The power of the court to modify or terminate a trust under §§ 19-704.10 through 19-704.16;

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| "(5) The effect of a spendthrift provision and the rights of certain creditors and assignees to reach a trust as provided in Subchapter 5; | 1 |
| "(6) The power of the court under § 19-707.2 to require, dispense with, or modify or terminate a bond; | 3 |
| "(7) The power of the court under § 19-707.8(b) to adjust a trustee's compensation specified in the terms of the trust which is unreasonably low or high; | 5 |
| "(8) The duty to notify the qualified beneficiaries of an irrevocable trust who have attained 25 years of age of the existence of the trust and of their right to request trustee's reports and other information reasonably related to the administration of the trust; | 7 |
| "(9) The duty to respond to the request of a beneficiary of an irrevocable trust for trustee's reports and other information reasonably related to the administration of a trust; | 10 |
| "(10) The effect of an exculpatory term under § 19-710.8; | 12 |
| "(11) The rights under §§ 19-710.10 through 19-710.13 of a person other than a trustee or beneficiary; | 13 |
| "(12) Periods of limitation for commencing a judicial proceeding; and | 14 |
| "(13) The power of the court to take such action and exercise such jurisdiction as may be necessary in the interests of justice. | 15 |
| "§ 19-701.6. Common law of trusts; principles of equity. | 16 |
| "The common law of trusts and principles of equity supplement this chapter, except to the extent modified by this chapter or another statute of the District of Columbia. | 17 |
| "§ 19-701.7. Governing law. | 18 |

"The meaning and effect of the terms of a trust are determined by: 1

"(1) The law of the jurisdiction designated in the terms unless the designation of that 2
jurisdiction's law is contrary to a strong public policy of the jurisdiction having the most 3
significant relationship to the matter at issue; or 4

"(2) In the absence of a controlling designation in the terms of the trust, the law of the 5
jurisdiction having the most significant relationship to the matter at issue. 6

"§ 19-701.8. Principal place of administration. 7

"(a) Without precluding other means for establishing a sufficient connection with the 8
designated jurisdiction, terms of a trust designating the principal place of administration are valid 9
and controlling if: 10

"(1) A trustee's principal place of business is located in or a trustee is a resident 11
of the designated jurisdiction; or 12

"(2) All or part of the administration occurs in the designated jurisdiction. 13

"(b) A trustee is under a continuing duty to administer the trust at a place appropriate to 14
its purposes, its administration, and the interests of the beneficiaries. 15

"(c) Without precluding the right of the court to order, approve, or disapprove a 16
transfer, the trustee, in furtherance of the duty prescribed by subsection (b), may transfer the 17
trust's principal place of administration to another State or to a jurisdiction outside of the United 18
States. 19

"(d) The trustee shall notify the qualified beneficiaries of a proposed transfer of a trust's 20
principal place of administration not less than 60 days before initiating the transfer. The notice 21

of proposed transfer must include: 1

"(1) The name of the jurisdiction to which the principal place of administration is 2
to be transferred; 3

"(2) The address and telephone number at the new location at which the trustee 4
can be contacted; 5

"(3) An explanation of the reasons for the proposed transfer; 6

"(4) The date on which the proposed transfer is anticipated to occur; and 7

"(5) The date, not less than 60 days after the giving of the notice, by which the 8
qualified beneficiary must notify the trustee of an objection to the proposed transfer. 9

"(e) The authority of a trustee under this section to transfer a trust's principal place of 10
administration terminates if a qualified beneficiary notifies the trustee of an objection to the 11
proposed transfer on or before the date specified in the notice. 12

"(f) In connection with a transfer of the trust's principal place of administration, the 13
trustee may transfer some or all of the trust property to a successor trustee designated in the 14
terms of the trust or appointed pursuant to § 19-707.4. 15

"§ 19-701.9. Methods and waiver of notice. 16

"(a) Notice to a person under this chapter or the sending of a document to a person 17
under this chapter must be accomplished in a manner reasonably suitable under the 18
circumstances and likely to result in receipt of the notice or document. Permissible methods of 19
notice or for sending a document include first-class mail, personal delivery, delivery to the 20
person's last known place of residence or place of business, or a properly directed electronic 21

message.

"(b) Notice otherwise required under this chapter or a document otherwise required to be sent under this chapter need not be provided to a person whose identity or location is unknown to and not reasonably ascertainable by the trustee.

"(c) Notice under this chapter or the sending of a document under this chapter may be waived by the person to be notified or sent the document.

"(d) Notice of a judicial proceeding must be given as provided in the applicable rules of civil procedure.

"§ 19-701.10. Others treated as qualified beneficiaries.

"(a) Whenever notice to qualified beneficiaries of a trust is required under this chapter , the trustee must also give notice to any other beneficiary who has sent the trustee a request for notice.

"(b) A charitable organization expressly entitled to receive benefits under the terms of a charitable trust or a person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in § 19-704.8 or 19-704.9 has the rights of a qualified beneficiary under this chapter.

"(c) The Corporation Counsel of the District of Columbia has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in the District of Columbia.

"§ 19-701.11. Nonjudicial settlement agreements.

"(a) For purposes of this section, "interested persons" means persons whose consent

would be required in order to achieve a binding settlement were the settlement to be approved
by the court.

"(b) Except as otherwise provided in subsection (c), interested persons may enter into a
binding nonjudicial settlement agreement with respect to any matter involving a trust.

"(c) A nonjudicial settlement agreement is valid only to the extent it does not violate a
material purpose of the trust and includes terms and conditions that could be properly
approved by the court under this chapter or other applicable law.

"(d) Matters that may be resolved by a nonjudicial settlement agreement include:

"(1) The interpretation or construction of the terms of the trust;

"(2) The approval of a trustee's report or accounting;

"(3) Direction to a trustee to refrain from performing a particular act or the grant
to a trustee of any necessary or desirable power;

"(4) The resignation or appointment of a trustee and the determination of a
trustee's compensation;

"(5) Transfer of a trust's principal place of administration; and

"(6) Liability of a trustee for an action relating to the trust.

"(e) Any interested person may request the court to approve a nonjudicial settlement
agreement, to determine whether the representation as provided in Subchapter 3 was adequate,
and to determine whether the agreement contains terms and conditions the court could have
properly approved.

§ 19-701.12. Rules of construction.

"The rules of construction that apply in the District of Columbia to the interpretation of and disposition of property by will also apply as appropriate to the interpretation of the terms of a trust and the disposition of the trust property.

"SUBCHAPTER 2. JUDICIAL PROCEEDINGS.

"§ 19-702.1. Role of court in administration of trust.

"(a) The court may intervene in the administration of a trust to the extent its jurisdiction is invoked by an interested person or as provided by law.

"(b) A trust is not subject to continuing judicial supervision unless ordered by the court.

"(c) A judicial proceeding involving a trust may relate to any matter involving the trust's administration, including a request for instructions and an action to declare rights.

"§ 19-702.2. Jurisdiction over trustee and beneficiary.

"(a) By accepting the trusteeship of a trust having its principal place of administration in the District of Columbia or by moving the principal place of administration to the District of Columbia, the trustee submits personally to the jurisdiction of the courts of the District of Columbia regarding any matter involving the trust.

"(b) With respect to their interests in the trust, the beneficiaries of a trust having its principal place of administration in the District of Columbia are subject to the jurisdiction of the courts of the District of Columbia regarding any matter involving the trust. By accepting a distribution from such a trust, the recipient submits personally to the jurisdiction of the courts of the District of Columbia regarding any matter involving the trust.

"(c) This section does not preclude other methods of obtaining jurisdiction over a

trustee, beneficiary, or other person receiving property from the trust.

"SUBCHAPTER 3. REPRESENTATION.

"§ 19-703.1. Representation: basic effect.

"(a) Notice to a person who may represent and bind another person under this subchapter has the same effect as if notice were given directly to the other person.

"(b) The consent of a person who may represent and bind another person under this subchapter is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

"(c) Except as otherwise provided in §§ 19-704.11 and 19-706.2, a person who under this subchapter may represent a settlor who lacks capacity may receive notice and give a binding consent on the settlor's behalf.

"§ 19-703.2. Representation by holder of general testamentary power of appointment.

"To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default, or otherwise, are subject to the power.

"§ 19-703.3. Representation by fiduciaries and parents.

"To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

"(1) A conservator may represent and bind the estate that the conservator controls;

"(2) A guardian may represent and bind the ward if a conservator of the ward's estate

has not been appointed;

"(3) An agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

"(4) A trustee may represent and bind the beneficiaries of the trust;

"(5) A personal representative of a decedent's estate may represent and bind persons interested in the estate; and

"(6) A parent may represent and bind the parent's minor or unborn child if a conservator or guardian for the child has not been appointed.

"§ 19-703.4. Representation by person having substantially identical interest.

"Unless otherwise represented, a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent there is no conflict of interest between the representative and the person represented.

"§ 19-703.5. Appointment of representative.

"(a) If the court determines that an interest is not represented under this subchapter, or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent, and otherwise represent, bind, and act on behalf of a minor, incapacitated, or unborn individual, or a person whose identity or location is unknown. A representative may be appointed to represent several persons or interests.

"(b) A representative may act on behalf of the individual represented with respect to

any matter arising under this chapter, whether or not a judicial proceeding concerning the trust
is pending.

"(c) In making decisions, a representative may consider general benefit accruing to the
living members of the individual's family.

"SUBCHAPTER 4. CREATION, VALIDITY, MODIFICATION, AND TERMINATION OF TRUST.

"§ 19-704.1. Methods of creating trust.

"A trust may be created by:

"(1) Transfer of property to another person as trustee during the settlor's
lifetime or by will or other disposition taking effect upon the settlor's death;

"(2) Declaration by the owner of property that the owner holds identifiable
property as trustee; or

"(3) Exercise of a power of appointment in favor of a trustee.

"§ 19-704.2. Requirements for creation.

"(a) A trust is created only if:

"(1) The settlor has capacity to create a trust;

"(2) The settlor indicates an intention to create the trust;

"(3) The trust has a definite beneficiary or is:

"(A) A charitable trust;

"(B) A trust for the care of an animal, as provided in § 19-704.8; or

"(C) A trust for a noncharitable purpose, as provided in § 19-704.9;

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| "(4) The trustee has duties to perform; and | 1 |
| "(5) The same person is not the sole trustee and sole beneficiary. | 2 |
| "(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, | 3 |
| subject to any applicable rule against perpetuities. | 4 |
| "(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the | 5 |
| power is not exercised within a reasonable time, the power fails and the property subject to the | 6 |
| power passes to the persons who would have taken the property had the power not been | 7 |
| conferred. | 8 |
| "§ 19-704.3. Trusts created in other jurisdictions. | 9 |
| "A trust not created by will is validly created if its creation complies with the law of the | 10 |
| jurisdiction in which the trust instrument was executed, or the law of the jurisdiction in which, at | 11 |
| the time of creation: | 12 |
| "(1) The settlor was domiciled, had a place of abode, or was a national; | 13 |
| "(2) A trustee was domiciled or had a place of business; or | 14 |
| "(3) Any trust property was located. | 15 |
| "§ 19-704.4. Trust purposes. | 16 |
| "A trust may be created only to the extent its purposes are lawful, not contrary to public | 17 |
| policy, and possible to achieve. A trust and its terms must be for the benefit of its beneficiaries. | 18 |
| | 19 |
| "§ 19-704.5. Charitable purposes; enforcement. | 20 |
| "(a) A charitable trust may be created for the relief of poverty, the advancement of | 21 |

education or religion, the promotion of health, governmental or municipal purposes, or other purposes the achievement of which is beneficial to the community.

"(b) If the terms of a charitable trust do not indicate a particular charitable purpose or beneficiary, the court may select one or more charitable purposes or beneficiaries. The selection must be consistent with the settlor's intention to the extent it can be ascertained.

"(c) The settlor of a charitable trust, among others, may maintain a proceeding to enforce the trust.

"§ 19-704.6. Creation of trust induced by fraud, duress, or undue influence.

"A trust is void to the extent its creation was induced by fraud, duress, or undue influence.

"§ 19-704.7. Evidence of oral trust.

"Except as required by a statute other than this chapter, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear and convincing evidence.

"§ 19-704.8. Trust for care of animal.

"(a) A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal.

"(b) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court. A

person having an interest in the welfare of the animal may request the court to appoint a person
to enforce the trust or to remove a person appointed.

"(c) Property of a trust authorized by this section may be applied only to its intended
use, except to the extent the court determines that the value of the trust property exceeds the
amount required for the intended use. Except as otherwise provided in the terms of the trust,
property not required for the intended use must be distributed to the settlor, if then living,
otherwise to the settlor's successors in interest.

"§ 19-704.9. Noncharitable trust without ascertainable beneficiary.

"Except as otherwise provided in § 19-704.8 or by another statute, the following rules
apply:

"(1) A trust may be created for a noncharitable purpose without a definite or
definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be
selected by the trustee. The trust may not be enforced for more than 21 years.

"(2) A trust authorized by this section may be enforced by a person appointed
in the terms of the trust or, if no person is so appointed, by a person appointed by the court.

"(3) Property of a trust authorized by this section may be applied only to its
intended use, except to the extent the court determines that the value of the trust property
exceeds the amount required for the intended use. Except as otherwise provided in the terms
of the trust, property not required for the intended use must be distributed to the settlor, if then
living, otherwise to the settlor's successors in interest.

"§ 19-704.10. Modification or termination of trust; proceedings for approval or disapproval.

"(a) In addition to the methods of termination prescribed by §§ 19-704.11 through 19-704.14, a trust terminates to the extent the trust is revoked or expires pursuant to its terms, no purpose of the trust remains to be achieved, or the purposes of the trust have become unlawful, contrary to public policy, or impossible to achieve.

"(b) A proceeding to approve or disapprove a proposed modification or termination under §§ 19-704.11 through 19-704.16, or trust combination or division under § 19-704.17, may be commenced by a trustee or beneficiary, and a proceeding to approve or disapprove a proposed modification or termination under § 19-704.11 may be commenced by the settlor. The settlor of a charitable trust may maintain a proceeding to modify the trust under § 19-704.13.

"§ 19-704.11. Modification or termination of noncharitable irrevocable trust by consent.

"(a) A noncharitable irrevocable trust may be modified or terminated upon consent of the settlor and all beneficiaries, even if the modification or termination is inconsistent with a material purpose of the trust. A settlor's power to consent to a trust's termination may be exercised by an agent under a power of attorney only to the extent expressly authorized by the power of attorney or the terms of the trust; by the settlor's conservator with the approval of the court supervising the conservatorship if an agent is not so authorized; or by the settlor's guardian with the approval of the court supervising the guardianship if an agent is not so authorized and a conservator has not been appointed.

"(b) A noncharitable irrevocable trust may be terminated upon consent of all of the beneficiaries if the court concludes that continuance of the trust is not necessary to achieve any

material purpose of the trust. A noncharitable irrevocable trust may be modified upon consent
of all of the beneficiaries if the court concludes that modification is not inconsistent with a
material purpose of the trust.

"(c) A spendthrift provision in the terms of the trust is not presumed to constitute a
material purpose of the trust.

"(d) Upon termination of a trust under subsection (a) or (b), the trustee shall distribute
the trust property as agreed by the beneficiaries.

"(e) If not all of the beneficiaries consent to a proposed modification or termination of
the trust under subsection (a) or (b), the modification or termination may be approved by the
court if the court is satisfied that:

"(1) If all of the beneficiaries had consented, the trust could have been modified
or terminated under this section; and

"(2) The interests of a beneficiary who does not consent will be adequately
protected.

"§ 19-704.12. Modification or termination because of unanticipated circumstances or inability
to administer trust effectively.

"(a) The court may modify the administrative or dispositive terms of a trust or terminate
the trust if, because of circumstances not anticipated by the settlor, modification or termination
will further the purposes of the trust. To the extent practicable, the modification must be made
in accordance with the settlor's probable intention.

"(b) The court may modify the administrative terms of a trust if continuation of the trust

on its existing terms would be impracticable or wasteful or impair the trust's administration.

"(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

"§ 19-704.13. Cy pres.

"(a) Except as otherwise provided in subsection (b), if a particular charitable purpose becomes unlawful, impracticable, impossible to achieve, or wasteful:

"(1) The trust does not fail, in whole or in part;

"(2) The trust property does not revert to the settlor or the settlor's successors in interest; and

"(3) The court may apply cy pres to modify or terminate the trust by directing that the trust property be applied or distributed, in whole or in part, in a manner consistent with the settlor's charitable purposes.

"(b) A provision in the terms of a charitable trust that would result in distribution of the trust property to a noncharitable beneficiary prevails over the power of the court under subsection (a) to apply cy pres to modify or terminate the trust only if, when the provision takes effect:

"(1) The trust property is to revert to the settlor and the settlor is still living; or

"(2) Fewer than 21 years have elapsed since the date of the trust's creation.

"§ 19-704.14. Termination of uneconomic trust.

"(a) After notice to the qualified beneficiaries, the trustee of a trust consisting of trust

property having a total value less than \$50,000 may terminate the trust if the trustee concludes that the value of the trust property is insufficient to justify the cost of administration.

"(b) The court may modify or terminate a trust or remove the trustee and appoint a different trustee if it determines that the value of the trust property is insufficient to justify the cost of administration.

"(c) Upon termination of a trust under this section, the trustee shall distribute the trust property in a manner consistent with the purposes of the trust.

"(d) This section does not apply to an easement for conservation or preservation.

"§ 19-704.15. Reformation to correct mistakes.

"The court may reform the terms of a trust, even if unambiguous, to conform the terms to the settlor's intention if it is proved by clear and convincing evidence that both the settlor's intent and the terms of the trust were affected by a mistake of fact or law, whether in expression or inducement.

"§ 19-704.16. Modification to achieve settlor's tax objectives.

"To achieve the settlor's tax objectives, the court may modify the terms of a trust in a manner that is not contrary to the settlor's probable intention. The court may provide that the modification has retroactive effect.

"§ 19-704.17. Combination and division of trusts.

"After notice to the qualified beneficiaries, a trustee may combine 2 or more trusts into a single trust or divide a trust into 2 or more separate trusts, if the result does not impair rights of any beneficiary or adversely affect achievement of the purposes of the trust.

"SUBCHAPTER 5. CREDITOR'S CLAIMS; SPENDTHRIFT AND
DISCRETIONARY TRUSTS.

"§ 19-705.1. Rights of beneficiary's creditor or assignee.

"To the extent a beneficiary's interest is not protected by a spendthrift provision, the court may authorize a creditor or assignee of the beneficiary to reach the beneficiary's interest by attachment of present or future distributions to or for the benefit of the beneficiary or other means. The court may limit the award to such relief as is appropriate under the circumstances.

"§ 19-705.2. Spendthrift provision.

"(a) A spendthrift provision is valid only if it restrains both voluntary and involuntary transfer of a beneficiary's interest.

"(b) A term of a trust providing that the interest of a beneficiary is held subject to a "spendthrift trust," or words of similar import, is sufficient to restrain both voluntary and involuntary transfer of the beneficiary's interest.

"(c) A beneficiary may not transfer an interest in a trust in violation of a valid spendthrift provision and, except as otherwise provided in this subchapter, a creditor or assignee of the beneficiary may not reach the interest or a distribution by the trustee before its receipt by the beneficiary.

"§ 19-705.3. Exceptions to spendthrift provision.

"(a) In this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another State.

"(b) Even if a trust contains a spendthrift provision, a beneficiary's child, spouse, or

former spouse who has a judgment or court order against the beneficiary for support or maintenance, or a judgment creditor who has provided services for the protection of a beneficiary's interest in the trust, may obtain from a court an order attaching present or future distributions to or for the benefit of the beneficiary.

"(c) A spendthrift provision is unenforceable against a claim of the District of Columbia or the United States to the extent a statute of the District of Columbia or federal law so provides.

"§ 19-705.4. Discretionary trusts; effect of standard.

"(a) In this section, "child" includes any person for whom an order or judgment for child support has been entered in this or another State.

"(b) Except as otherwise provided in subsection (c), whether or not a trust contains a spendthrift provision, a creditor of a beneficiary may not compel a distribution that is subject to the trustee's discretion, even if:

"(1) The discretion is expressed in the form of a standard of distribution; or

"(2) The trustee has abused the discretion.

"(c) To the extent a trustee has not complied with a standard of distribution or has abused a discretion:

"(1) A distribution may be ordered by the court to satisfy a judgment or court order against the beneficiary for support or maintenance of the beneficiary's child, spouse, or former spouse; and

"(2) The court shall direct the trustee to pay to the child, spouse, or former

spouse such amount as is equitable under the circumstances but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficiary had the trustee complied with the standard or not abused the discretion.

"(d) This section does not limit the right of a beneficiary to maintain a judicial proceeding against a trustee for an abuse of discretion or failure to comply with a standard for distribution.

"§ 19-705.5. Creditor's claim against settlor.

"(a) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

"(1) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

"(2) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach the maximum amount that can be distributed to or for the settlor's benefit. If a trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

"(3) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is

inadequate to satisfy those claims, costs, expenses, and allowances.

"(b) For purposes of this section:

"(1) During the period the power may be exercised, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent of the property subject to the power; and

"(2) Upon the lapse, release, or waiver of the power, the holder is treated as the settlor of the trust only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in section 2041(b)(2) or 2514(e) of the Internal Revenue Code of 1986, or section 2503(b) of the Internal Revenue Code of 1986, in each case as in effect on the effective date of this chapter, or as later amended.

"§ 19-705.6. Overdue distribution.

"Whether or not a trust contains a spendthrift provision, a creditor or assignee of a beneficiary may reach a mandatory distribution of income or principal, including a distribution upon termination of the trust, if the trustee has not made the distribution to the beneficiary within a reasonable time after the required distribution date.

"§ 19-705.7. Personal obligations of trustee.

"Trust property is not subject to personal obligations of the trustee, even if the trustee becomes insolvent or bankrupt.

"SUBCHAPTER 6. REVOCABLE TRUSTS.

"§ 19-706.1. Capacity of settlor of revocable trust.

"The capacity required to create, amend, revoke, or add property to a revocable trust,

or to direct the actions of the trustee of a revocable trust, is the same as that required to make a will.

"§ 19-706.2. Revocation or amendment of revocable trust.

"(a) Unless the terms of a trust expressly provide that the trust is irrevocable, the settlor may revoke or amend the trust. This subsection does not apply to a trust created under an instrument executed before the effective date of this chapter.

"(b) If a revocable trust is created or funded by more than one settlor:

"(1) To the extent the trust consists of community property, the trust may be revoked by either spouse acting alone but may be amended only by joint action of both spouses; and

"(2) To the extent the trust consists of property other than community property, each settlor may revoke or amend the trust with regard the portion of the trust property attributable to that settlor's contribution.

"(c) The settlor may revoke or amend a revocable trust:

"(1) By substantially complying with a method provided in the terms of the trust; or

"(2) If the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by:

"(A) Executing a later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust; or

"(B) Any other method manifesting clear and convincing evidence of the settlor's intent. 1
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"(d) Upon revocation of a revocable trust, the trustee shall deliver the trust property as the settlor directs. 3
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"(e) A settlor's powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power. 5
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"(f) A conservator of the settlor or, if no conservator has been appointed, a guardian of the settlor may exercise a settlor's powers with respect to revocation, amendment, or distribution of trust property only with the approval of the court supervising the conservatorship or guardianship. 8
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"(g) A trustee who does not know that a trust has been revoked or amended is not liable to the settlor or settlor's successors in interest for distributions made and other actions taken on the assumption that the trust had not been amended or revoked. 12
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"§ 19-706.3. Settlor's powers; powers of withdrawal. 15

"(a) While a trust is revocable and the settlor has capacity to revoke the trust, rights of the beneficiaries are subject to the control of, and the duties of the trustee are owed exclusively to, the settlor. 16
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"(b) While a trust is revocable and the settlor does not have capacity to revoke the trust, rights of the beneficiaries are held by the beneficiaries. 19
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"(c) If a revocable trust has more than one settlor, the duties of the trustee are owed to 21

all of the settlors having capacity to revoke the trust.

"(d) During the period the power may be exercised, the holder of a power of withdrawal has the rights of a settlor of a revocable trust under this section to the extent of the property subject to the power.

"§ 19-706.4. Limitation on action contesting validity of revocable trust; distribution of trust property.

"(a) A person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of:

"(1) 3 years after the settlor's death; or

"(2) 120 days after the trustee sent the person a copy of the trust instrument and a notice informing the person of the trust's existence, of the trustee's name and address, and of the time allowed for commencing a proceeding.

"(b) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless:

"(1) The trustee knows of a pending judicial proceeding contesting the validity of the trust; or

"(2) A potential contestant has notified the trustee of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 60 days after the contestant sent the notification.

"(c) A beneficiary of a trust that is determined to have been invalid is liable to return any

distribution received.

"SUBCHAPTER 7. OFFICE OF TRUSTEE.

"§ 19-707.1. Accepting or declining trusteeship.

"(a) Except as otherwise provided in subsection (c), a person designated as trustee accepts the trusteeship:

"(1) By substantially complying with a method of acceptance provided in the terms of the trust; or

"(2) If the terms of the trust do not provide a method or the method provided in the terms is not expressly made exclusive, by accepting delivery of the trust property, exercising powers or performing duties as trustee, or otherwise indicating acceptance of the trusteeship.

"(b) A person designated as trustee who has not yet accepted the trusteeship may reject the trusteeship. A designated trustee who does not accept the trusteeship within a reasonable time after knowing of the designation is deemed to have rejected the trusteeship.

"(c) A person designated as trustee, without accepting the trusteeship, may:

"(1) Act to preserve the trust property if, within a reasonable time after acting, the person sends a rejection of the trusteeship to the settlor or, if the settlor is dead or lacks capacity, to a qualified beneficiary; and

"(2) Inspect or investigate trust property to determine potential liability under environmental or other law or for any other purpose.

"§ 19-707.2. Trustee's bond.

"(a) A trustee shall give bond to secure performance of the trustee's duties only if the

court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

"(b) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

"(c) A regulated financial-service institution qualified to do trust business in the District of Columbia need not give bond, even if required by the terms of the trust.]

"§ 19-707.3. Cotrustees.

"(a) Cotrustees who are unable to reach a unanimous decision may act by majority decision.

"(b) If a vacancy occurs in a cotrusteeship, the remaining cotrustees may act for the trust.

"(c) A cotrustee must participate in the performance of a trustee's function unless the cotrustee is unavailable to perform the function because of absence, illness, disqualification under other law, or other temporary incapacity or the cotrustee has properly delegated the performance of the function to another trustee.

"(d) If a cotrustee is unavailable to perform duties because of absence, illness, disqualification under other law, or other temporary incapacity, and prompt action is necessary to achieve the purposes of the trust or to avoid injury to the trust property, the remaining cotrustee or a majority of the remaining cotrustees may act for the trust.

"(e) A trustee may not delegate to a cotrustee the performance of a function the settlor reasonably expected the trustees to perform jointly. Unless a delegation was irrevocable, a

trustee may revoke a delegation previously made.

"(f) Except as otherwise provided in subsection (g), a trustee who does not join in an action of another trustee is not liable for the action.

"(g) Each trustee shall exercise reasonable care to:

"(1) Prevent a cotrustee from committing a serious breach of trust; and

"(2) Compel a cotrustee to redress a serious breach of trust.

"(h) A dissenting trustee who joins in an action at the direction of the majority of the trustees and who notified any cotrustee of the dissent at or before the time of the action is not liable for the action unless the action is a serious breach of trust.

"§ 19-707.4. Vacancy in trusteeship; appointment of successor.

"(a) A vacancy in a trusteeship occurs if:

"(1) A person designated as trustee rejects the trusteeship;

"(2) A person designated as trustee cannot be identified or does not exist;

"(3) A trustee resigns;

"(4) A trustee is disqualified or removed;

"(5) A trustee dies; or

"(6) A guardian or conservator is appointed for an individual serving as trustee.

"(b) If one or more cotrustees remain in office, a vacancy in a trusteeship need not be filled. A vacancy in a trusteeship must be filled if the trust has no remaining trustee.

"(c) A vacancy in a trusteeship required to be filled must be filled in the following order of priority:

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| "(1) By a person designated in the terms of the trust to act as successor trustee; | 1 |
| "(2) By a person appointed by unanimous agreement of the qualified | 2 |
| beneficiaries; or | 3 |
| "(3) By a person appointed by the court. | 4 |
| "(d) Whether or not a vacancy in a trusteeship exists or is required to be filled, the court | 5 |
| may appoint an additional trustee or special fiduciary whenever the court considers the | 6 |
| appointment necessary for the administration of the trust. | 7 |
| "§ 19-707.5. Resignation of trustee. | 8 |
| "(a) A trustee may resign: | 9 |
| "(1) Upon at least 30 days' notice to the qualified beneficiaries and all | 10 |
| cotrustees; or | 11 |
| "(2) With the approval of the court. | 12 |
| "(b) In approving a resignation, the court may issue orders and impose conditions | 13 |
| reasonably necessary for the protection of the trust property. | 14 |
| "(c) Any liability of a resigning trustee or of any sureties on the trustee's bond for acts or | 15 |
| omissions of the trustee is not discharged or affected by the trustee's resignation. | 16 |
| "§ 19-707.6. Removal of trustee. | 17 |
| "(a) The settlor, a cotrustee, or a beneficiary may request the court to remove a trustee, | 18 |
| or a trustee may be removed by the court on its own initiative. | 19 |
| "(b) The court may remove a trustee if: | 20 |
| "(1) The trustee has committed a serious breach of trust; | 21 |

"(2) Lack of cooperation among cotrustees substantially impairs the
administration of the trust;

"(3) Because of unfitness, unwillingness, or persistent failure of the trustee to
administer the trust effectively, the court determines that removal of the trustee best serves the
interests of the beneficiaries; or

"(4) There has been a substantial change of circumstances or removal is
requested by all of the qualified beneficiaries, the court finds that removal of the trustee best
serves the interests of all of the beneficiaries and is not inconsistent with a material purpose of
the trust, and a suitable cotrustee or successor trustee is available.

"(c) Pending a final decision on a request to remove a trustee, or in lieu of or in addition
to removing a trustee, the court may order such appropriate relief under § 19-710.1(b) as may
be necessary to protect the trust property or the interests of the beneficiaries.

"§ 19-707.7. Delivery of property by former trustee.

"(a) Unless a cotrustee remains in office or the court otherwise orders, and until the trust
property is delivered to a successor trustee or other person entitled to it, a trustee who has
resigned or been removed has the duties of a trustee and the powers necessary to protect the
trust property.

"(b) A trustee who has resigned or been removed shall proceed expeditiously to deliver
the trust property within the trustee's possession to the cotrustee, successor trustee, or other
person entitled to it.

"§ 19-707.8. Compensation of trustee.

"(a) If the terms of a trust do not specify the trustee's compensation, a trustee is entitled
to compensation that is reasonable under the circumstances.

"(b) If the terms of a trust specify the trustee's compensation, the trustee is entitled to be
compensated as specified, but the court may allow more or less compensation if:

"(1) The duties of the trustee are substantially different from those contemplated
when the trust was created; or

"(2) The compensation specified by the terms of the trust would be
unreasonably low or high.

"§ 19-707.9. Reimbursement of expenses.

"(a) A trustee is entitled to be reimbursed out of the trust property, with interest as
appropriate, for:

"(1) Expenses that were properly incurred in the administration of the trust; and

"(2) To the extent necessary to prevent unjust enrichment of the trust, expenses
that were not properly incurred in the administration of the trust.

"(b) An advance by the trustee of money for the protection of the trust gives rise to a
lien against trust property to secure reimbursement with reasonable interest.

"SUBCHAPTER 8. DUTIES AND POWERS OF TRUSTEE.

"§ 19-708.1. Duty to administer trust.

"Upon acceptance of a trusteeship, the trustee shall administer the trust in good faith, in
accordance with its terms and purposes and the interests of the beneficiaries, and in accordance
with this chapter.

"§ 19-708.2. Duty of loyalty.

"(a) A trustee shall administer the trust solely in the interests of the beneficiaries.

"(b) Subject to the rights of persons dealing with or assisting the trustee as provided in § 19-710.12, a sale, encumbrance, or other transaction involving the investment or management of trust property entered into by the trustee for the trustee's own personal account or which is otherwise affected by a conflict between the trustee's fiduciary and personal interests is voidable by a beneficiary affected by the transaction unless:

"(1) The transaction was authorized by the terms of the trust;

"(2) The transaction was approved by the court;

"(3) The beneficiary did not commence a judicial proceeding within the time allowed by § 19-710.5;

"(4) The beneficiary consented to the trustee's conduct, ratified the transaction, or released the trustee in compliance with § 19-710.9; or

"(5) The transaction involves a contract entered into or claim acquired by the trustee before the person became or contemplated becoming trustee.

"(c) A sale, encumbrance, or other transaction involving the investment or management of trust property is presumed to be affected by a conflict between personal and fiduciary interests if it is entered into by the trustee with:

"(1) The trustee's spouse;

"(2) The trustee's descendants, siblings, parents, or their spouses;

"(3) An agent or attorney of the trustee; or

"(4) A corporation or other person or enterprise in which the trustee, or a person that owns a significant interest in the trustee, has an interest that might affect the trustee's best judgment.

"(d) A transaction between a trustee and a beneficiary that does not concern trust property but that occurs during the existence of the trust or while the trustee retains significant influence over the beneficiary and from which the trustee obtains an advantage is voidable by the beneficiary unless the trustee establishes that the transaction was fair to the beneficiary.

"(e) A transaction not concerning trust property in which the trustee engages in the trustee's individual capacity involves a conflict between personal and fiduciary interests if the transaction concerns an opportunity properly belonging to the trust.

"(f) An investment by a trustee in securities of an investment company or investment trust to which the trustee, or its affiliate, provides services in a capacity other than as trustee is not presumed to be affected by a conflict between personal and fiduciary interests if the investment complies with the prudent investor rule of Subchapter 9. The trustee may be compensated by the investment company or investment trust for providing those services out of fees charged to the trust if the trustee at least annually notifies the persons entitled under § 19-708.13 to receive a copy of the trustee's annual report of the rate and method by which the compensation was determined.

"(g) In voting shares of stock or in exercising powers of control over similar interests in other forms of enterprise, the trustee shall act in the best interests of the beneficiaries. If the trust is the sole owner of a corporation or other form of enterprise, the trustee shall elect or

appoint directors or other managers who will manage the corporation or enterprise in the best
interests of the beneficiaries.

"(h) This section does not preclude the following transactions, if fair to the beneficiaries:

"(1) An agreement between a trustee and a beneficiary relating to the
appointment or compensation of the trustee;

"(2) Payment of reasonable compensation to the trustee;

"(3) A transaction between a trust and another trust, decedent's estate, or
conservatorship of which the trustee is a fiduciary or in which a beneficiary has an interest;

"(4) A deposit of trust money in a regulated financial-service institution operated
by the trustee; or

"(5) An advance by the trustee of money for the protection of the trust.

"(i) The court may appoint a special fiduciary to make a decision with respect to any
proposed transaction that might violate this section if entered into by the trustee.

"§ 19-708.3. Impartiality.

"If a trust has 2 or more beneficiaries, the trustee shall act impartially in investing,
managing, and distributing the trust property, giving due regard to the beneficiaries' respective
interests.

"§ 19-708.4. Prudent administration.

"A trustee shall administer the trust as a prudent person would, by considering the
purposes, terms, distributional requirements, and other circumstances of the trust. In satisfying
this standard, the trustee shall exercise reasonable care, skill, and caution.

"§ 19-708.5. Costs of administration.

"In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee.

"§ 19-708.6. Trustee's skills.

"A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, shall use those special skills or expertise.

"§ 19-708.7. Delegation by trustee.

"(a) A trustee may delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

"(1) Selecting an agent;

"(2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and

"(3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

"(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

"(c) A trustee who complies with subsection (a) is not liable to the beneficiaries or to the trust for an action of the agent to whom the function was delegated.

"(d) By accepting a delegation of powers or duties from the trustee of a trust that is

subject to the law of the District of Columbia, an agent submits to the jurisdiction of the courts
of the District of Columbia.

"§ 19-708.8. Powers to direct.

"(a) While a trust is revocable, the trustee may follow a direction of the settlor that is
contrary to the terms of the trust.

"(b) If the terms of a trust confer upon a person other than the settlor of a revocable
trust power to direct certain actions of the trustee, the trustee shall act in accordance with an
exercise of the power unless the attempted exercise is manifestly contrary to the terms of the
trust or the trustee knows the attempted exercise would constitute a serious breach of a
fiduciary duty that the person holding the power owes to the beneficiaries of the trust.

"(c) The terms of a trust may confer upon a trustee or other person a power to direct
the modification or termination of the trust.

"(d) A person, other than a beneficiary, who holds a power to direct is presumptively a
fiduciary who, as such, is required to act in good faith with regard to the purposes of the trust
and the interests of the beneficiaries. The holder of a power to direct is liable for any loss that
results from breach of a fiduciary duty.

"§ 19-708.9. Control and protection of trust property.

"A trustee shall take reasonable steps to take control of and protect the trust property.

"§ 19-708.10. Recordkeeping and identification of trust property.

"(a) A trustee shall keep adequate records of the administration of the trust.

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| "(b) A trustee shall keep trust property separate from the trustee's own property. | 1 |
| "(c) Except as otherwise provided in subsection (d), a trustee shall cause the trust | 2 |
| property to be designated so that the interest of the trust, to the extent feasible, appears in | 3 |
| records maintained by a party other than a trustee or beneficiary. | 4 |
| "(d) If the trustee maintains records clearly indicating the respective interests, a trustee | 5 |
| may invest as a whole the property of 2 or more separate trusts. | 6 |
| "§ 19-708.11. Enforcement and defense of claims. | 7 |
| "A trustee shall take reasonable steps to enforce claims of the trust and to defend claims | 8 |
| against the trust. | 9 |
| "§ 19-708.12. Collecting trust property. | 10 |
| "A trustee shall take reasonable steps to compel a former trustee or other person to | 11 |
| deliver trust property to the trustee, and to redress a breach of trust known to the trustee to | 12 |
| have been committed by a former trustee. | 13 |
| "§ 19-708.13. Duty to inform and report. | 14 |
| "(a) A trustee shall keep the qualified beneficiaries of the trust reasonably informed | 15 |
| about the administration of the trust and of the material facts necessary for them to protect their | 16 |
| interests. Unless unreasonable under the circumstances, a trustee shall promptly respond to a | 17 |
| beneficiary's request for information related to the administration of the trust. | 18 |
| "(b) A trustee: | 19 |
| "(1) Upon request of a beneficiary, shall promptly furnish to the beneficiary a | 20 |
| copy of the trust instrument; | 21 |

"(2) Within 60 days after accepting a trusteeship, shall notify the qualified beneficiaries of the acceptance and of the trustee's name, address, and telephone number;

"(3) Within 60 days after the date the trustee acquires knowledge of the creation of an irrevocable trust, or the date the trustee acquires knowledge that a formerly revocable trust has become irrevocable, whether by the death of the settlor or otherwise, shall notify the qualified beneficiaries of the trust's existence, of the identity of the settlor or settlors, of the right to request a copy of the trust instrument, and of the right to a trustee's report as provided in subsection (c); and

"(4) Shall notify the qualified beneficiaries in advance of any change in the method or rate of the trustee's compensation.

"(c) A trustee shall send to the distributees or permissible distributees of trust income or principal, and to other qualified or nonqualified beneficiaries who request it, at least annually and at the termination of the trust, a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values. Upon a vacancy in a trusteeship, unless a cotrustee remains in office, a report must be sent to the qualified beneficiaries by the former trustee. A personal representative, conservator, or guardian may send the qualified beneficiaries a report on behalf of a deceased or incapacitated trustee.

"(d) A beneficiary may waive the right to a trustee's report or other information otherwise required to be furnished under this section. A beneficiary, with respect to future reports and other information, may withdraw a waiver previously given.

"§ 19-708.14. Discretionary powers; tax savings.

"(a) Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute", "sole", or "uncontrolled", the trustee shall exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

"(b) Subject to subsection (d), and unless the terms of the trust expressly indicate that a rule in this subsection does not apply:

"(1) A person other than a settlor who is a beneficiary and trustee of a trust that confers on the trustee a power to make discretionary distributions to or for the trustee's personal benefit may exercise the power only in accordance with an ascertainable standard relating to the trustee's individual health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter, or as later amended; and

"(2) A trustee may not exercise a power to make discretionary distributions to satisfy a legal obligation of support that the trustee personally owes another person.

"(c) A power whose exercise is limited or prohibited by subsection (b) may be exercised by a majority of the remaining trustees whose exercise of the power is not so limited or prohibited. If the power of all trustees is so limited or prohibited, the court may appoint a special fiduciary with authority to exercise the power.

"(d) Subsection (b) does not apply to:

"(1) A power held by the settlor's spouse who is the trustee of a trust for which

a marital deduction, as defined in section 2056(b)(5) or 2523(b)(5) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter, or as later amended, was previously allowed;

"(2) Any trust during any period that the trust may be revoked or amended by its settlor; or

"(3) A trust if contributions to the trust qualify for the annual exclusion under Section 2503(c) of the Internal Revenue Code of 1986, as in effect on the effective date of this chapter, or as later amended.

"§ 19-708.15. General powers of trustee.

"(a) A trustee, without authorization by the court, may exercise:

"(1) Powers conferred by the terms of the trust; or

"(2) Except as limited by the terms of the trust:

"(A) All powers over the trust property which an unmarried competent owner has over individually owned property;

"(B) Any other powers appropriate to achieve the proper investment, management, and distribution of the trust property; and

"(C) Any other powers conferred by this chapter.

"(b) The exercise of a power is subject to the fiduciary duties prescribed by this subchapter.

"§ 19-708.16. Specific powers of trustee.

"Without limiting the authority conferred by § 19-708.15, a trustee may:

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| "(1) Collect trust property and accept or reject additions to the trust property | 1 |
| from a settlor or any other person; | 2 |
| "(2) Acquire or sell property, for cash or on credit, at public or private sale; | 3 |
| "(3) Exchange, partition, or otherwise change the character of trust property; | 4 |
| "(4) Deposit trust money in an account in a regulated financial-service | 5 |
| institution; | 6 |
| "(5) Borrow money, with or without security, and mortgage or pledge trust | 7 |
| property for a period within or extending beyond the duration of the trust; | 8 |
| "(6) With respect to an interest in a proprietorship, partnership, limited liability | 9 |
| company, business trust, corporation, or other form of business or enterprise, continue the | 10 |
| business or other enterprise and take any action that may be taken by shareholders, members, | 11 |
| or property owners, including merging, dissolving, or otherwise changing the form of business | 12 |
| organization or contributing additional capital; | 13 |
| "(7) With respect to stocks or other securities, exercise the rights of an absolute | 14 |
| owner, including the right to: | 15 |
| "(A) Vote, or give proxies to vote, with or without power of | 16 |
| substitution, or enter into or continue a voting trust agreement; | 17 |
| "(B) Hold a security in the name of a nominee or in other form without | 18 |
| disclosure of the trust so that title may pass by delivery; | 19 |
| "(C) Pay calls, assessments, and other sums chargeable or accruing | 20 |
| against the securities, and sell or exercise stock subscription or conversion rights; and | 21 |

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| "(D) Deposit the securities with a depository or other regulated | 1 |
| financial-service institution; | 2 |
| "(8) With respect to an interest in real property, construct, or make ordinary or | 3 |
| extraordinary repairs to, alterations to, or improvements in, buildings or other structures, | 4 |
| demolish improvements, raze existing or erect new party walls or buildings, subdivide or | 5 |
| develop land, dedicate land to public use or grant public or private easements, and make or | 6 |
| vacate plats and adjust boundaries; | 7 |
| "(9) Enter into a lease for any purpose as lessor or lessee, including a lease or | 8 |
| other arrangement for exploration and removal of natural resources, with or without the option | 9 |
| to purchase or renew, for a period within or extending beyond the duration of the trust; | 10 |
| "(10) Grant an option involving a sale, lease, or other disposition of trust | 11 |
| property or acquire an option for the acquisition of property, including an option exercisable | 12 |
| beyond the duration of the trust, and exercise an option so acquired; | 13 |
| "(11) Insure the property of the trust against damage or loss and insure the | 14 |
| trustee, the trustee's agents, and beneficiaries against liability arising from the administration of | 15 |
| the trust; | 16 |
| "(12) Abandon or decline to administer property of no value or of insufficient | 17 |
| value to justify its collection or continued administration; | 18 |
| "(13) With respect to possible liability for violation of environmental law: | 19 |
| "(A) Inspect or investigate property the trustee holds or has been asked | 20 |
| to hold, or property owned or operated by an organization in which the trustee holds or has | 21 |

been asked to hold an interest, for the purpose of determining the application of environmental law with respect to the property;

"(B) Take action to prevent, abate, or otherwise remedy any actual or potential violation of any environmental law affecting property held directly or indirectly by the trustee, whether taken before or after the assertion of a claim or the initiation of governmental enforcement;

"(C) Decline to accept property into trust or disclaim any power with respect to property that is or may be burdened with liability for violation of environmental law;

"(D) Compromise claims against the trust which may be asserted for an alleged violation of environmental law; and

"(E) Pay the expense of any inspection, review, abatement, or remedial action to comply with environmental law;

"(14) Pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

"(15) Pay taxes, assessments, compensation of the trustee and of employees and agents of the trust, and other expenses incurred in the administration of the trust;

"(16) Exercise elections with respect to federal, state, and local taxes;

"(17) Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds;

"(18) Make loans out of trust property, including loans to a beneficiary on terms
and conditions the trustee considers to be fair and reasonable under the circumstances, and the
trustee has a lien on future distributions for repayment of those loans;

"(19) Pledge trust property to guarantee loans made by others to the
beneficiary;

"(20) Appoint a trustee to act in another jurisdiction with respect to trust
property located in the other jurisdiction, confer upon the appointed trustee all of the powers
and duties of the appointing trustee, require that the appointed trustee furnish security, and
remove any trustee so appointed;

"(21) Pay an amount distributable to a beneficiary who is under a legal disability
or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary
or applying it for the beneficiary's benefit, or by:

"(A) Paying it to the beneficiary's conservator or, if the beneficiary does
not have a conservator, the beneficiary's guardian;

"(B) Paying it to the beneficiary's custodian under Chapter 3 of Title 21
or custodial trustee under Chapter 13 of Title 19, and, for that purpose, creating a
custodianship or custodial trust;

"(C) If the trustee does not know of a conservator, guardian, custodian,
or custodial trustee, paying it to an adult relative or other person having legal or physical care or
custody of the beneficiary, to be expended on the beneficiary's behalf; or

"(D) Managing it as a separate fund on the beneficiary's behalf, subject

to the beneficiary's continuing right to withdraw the distribution;

"(22) On distribution of trust property or the division or termination of a trust, make distributions in divided or undivided interests, allocate particular assets in proportionate or disproportionate shares, value the trust property for those purposes, and adjust for resulting differences in valuation;

"(23) Resolve a dispute concerning the interpretation of the trust or its administration by mediation, arbitration, or other procedure for alternative dispute resolution;

"(24) Prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

"(25) Sign and deliver contracts and other instruments that are useful to achieve or facilitate the exercise of the trustee's powers; and

"(26) On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it.

"§ 19-708.17. Distribution upon termination.

"(a) Upon termination or partial termination of a trust, the trustee may send to the beneficiaries a proposal for distribution. The right of any beneficiary to object to the proposed distribution terminates if the beneficiary does not notify the trustee of an objection within 30 days after the proposal was sent but only if the proposal informed the beneficiary of the right to object and of the time allowed for objection.

"(b) Upon the occurrence of an event terminating or partially terminating a trust, the trustee shall proceed expeditiously to distribute the trust property to the persons entitled to it,

subject to the right of the trustee to retain a reasonable reserve for the payment of debts,
expenses, and taxes.

"(c) A release by a beneficiary of a trustee from liability for breach of trust is invalid to
the extent:

"(1) It was induced by improper conduct of the trustee; or

"(2) The beneficiary, at the time of the release, did not know of the beneficiary's
rights or of the material facts relating to the breach.

"SUBCHAPTER 9. UNIFORM PRUDENT INVESTOR ACT.

"§ 19-709.1. Prudent investor rule.

"(a) Except as provided in subsection (b), a trustee who invests and manages trust
assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule as
set forth in §§ 19-709.2 through 19-709.9.

"(b) The prudent investor rule is a default rule that may be expanded, restricted,
eliminated, or otherwise altered by provisions of the trust. A trustee is not liable to a
beneficiary to the extent that the trustee acted in reasonable reliance on provisions of the trust.

"§ 19-709.2. Standard of care; portfolio strategy; risk and return objectives.

"(a) A trustee shall invest and manage trust assets as a prudent investor would by
considering the purposes, terms, distribution requirements, and other circumstances of the trust.
In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

"(b) A trustee's investment and management decisions respecting individual assets must
be evaluated not in isolation, but in the context of the trust portfolio as a whole and as a part of

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| an overall investment strategy having risk and return objectives reasonably suited to the trust. | 1 |
| "(c) Among the circumstances relevant to the trust or its beneficiaries that a trustee shall | 2 |
| consider in investing and managing the trust assets are the following: | 3 |
| "(1) General economic conditions; | 4 |
| "(2) The possible effect of inflation or deflation; | 5 |
| "(3) The expected tax consequences of investment decisions or strategies; | 6 |
| "(4) The role that each investment or course of action plays within the overall | 7 |
| trust portfolio, which may include financial assets, interests in closely held enterprises, tangible | 8 |
| and intangible personal property, and real property; | 9 |
| "(5) The expected total return from income and the appreciation of capital; | 10 |
| "(6) Other resources of the beneficiaries; | 11 |
| "(7) Needs for liquidity, for regularity of income, and for preservation or | 12 |
| appreciation of capital; and | 13 |
| "(8) An asset's special relationship or special value, if any, to the purposes of | 14 |
| the trust or to one or more of the beneficiaries. | 15 |
| "(d) A trustee shall take reasonable steps to verify facts relevant to the investment and | 16 |
| management of trust assets. | 17 |
| "(e) Subject to the standards of this subchapter, a trustee may invest in any kind of | 18 |
| property or type of investment. | 19 |
| "(f) A trustee who has special skills or expertise, or is named trustee in reliance upon | 20 |
| the trustee's representation that the trustee has special skills or expertise, has a duty to use those | 21 |

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| special skills or expertise. | 1 |
| "§ 19-709.3. Diversification. | 2 |
| "A trustee shall diversify the investments of the trust unless the trustee reasonably | 3 |
| determines that, because of special circumstances, the purposes of the trust are better served | 4 |
| without diversifying. | 5 |
| "§ 19-709.4. Duties at inception of trusteeship. | 6 |
| "Within a reasonable time after accepting a trusteeship or receiving trust assets, a | 7 |
| trustee shall review the trust assets and make and implement decisions concerning the retention | 8 |
| and disposition of assets in order to bring the trust portfolio into compliance with the purposes, | 9 |
| terms, distribution requirements, and other circumstances of the trust, and with the requirements | 10 |
| of this subchapter. | 11 |
| "§ 19-709.5. Loyalty. | 12 |
| "A trustee shall invest and manage the trust assets solely in the interest of the | 13 |
| beneficiaries. | 14 |
| "§ 19-709.6. Impartiality. | 15 |
| "If a trust has 2 or more beneficiaries, the trustee shall act impartially in investing and | 16 |
| managing the trust assets, taking into account any differing interests of the beneficiaries. | 17 |
| "§ 19-709.7. Investment costs. | 18 |
| "In investing and managing trust assets, a trustee may only incur costs that are | 19 |
| appropriate and reasonable in relation to the assets, the purposes of the trust, and the skills of | 20 |
| the trustee. | 21 |

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| "§ 19-709.8. Reviewing compliance. | 1 |
| "The prudent investor rule expresses a standard of conduct, not a particular outcome. | 2 |
| Compliance with the prudent investor rule is determined in light of the facts and circumstances | 3 |
| existing at the time of a trustee's decision or action. | 4 |
| "§ 19-709.9. Delegation of investment and management functions. | 5 |
| "(a) A trustee may delegate to an agent investment and management functions that a | 6 |
| prudent trustee of comparable skills could properly delegate under the circumstances. The | 7 |
| trustee shall exercise reasonable care, skill, and caution in: | 8 |
| "(1) Selecting an agent; | 9 |
| "(2) Establishing the scope and terms of the delegation consistent with the | 10 |
| purposes and terms of the trust; and | 11 |
| "(3) Periodically reviewing the agent's actions in order to monitor the agent's | 12 |
| performance and compliance with the scope and terms of the delegation. | 13 |
| "(b) In performing a delegated function, an agent owes a duty to the trust to exercise | 14 |
| reasonable care to comply with the terms of the delegation. | 15 |
| "(c) A trustee who complies with the requirements of subsection (a) is not liable to the | 16 |
| beneficiaries or to the trust for the decisions or actions of the agent to whom the function was | 17 |
| delegated. | 18 |
| "(d) By accepting the delegation of a trust function from the trustee of a trust that is | 19 |
| subject to the laws of the District of Columbia, an agent submits to the jurisdiction of the courts | 20 |
| of the District of Columbia. | 21 |

"§ 19-709.10. Language invoking standard of subchapter.

"The following terms or comparable language in a trust instrument, unless otherwise limited or modified by the instrument, authorizes any investment or strategy permitted under this subchapter: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule", and "prudent investor rule".

"§ 19-709.11. Uniformity of application and construction.

"This subchapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this subchapter among the District of Columbia and states enacting it.

"§ 19-709.12. Application to existing relationships.

"This subchapter applies to trusts existing on and created after March 26, 1999. As applied to trusts existing on March 26, 1999, this subchapter governs only decisions or actions occurring after that date.

"SUBCHAPTER 10. LIABILITY OF TRUSTEES AND RIGHTS OF PERSONS

DEALING WITH TRUSTEE.

"§ 19-710.1. Remedies for breach of trust.

"(a) A violation by a trustee of a duty the trustee owes to a beneficiary is a breach of

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| trust. | 1 |
| "(b) To remedy a breach of trust that has occurred or may occur, the court may: | 2 |
| "(1) Compel the trustee to perform the trustee's duties; | 3 |
| "(2) Enjoin the trustee from committing a breach of trust; | 4 |
| "(3) Compel the trustee to redress a breach of trust by paying money, restoring | 5 |
| property, or other means; | 6 |
| "(4) Order a trustee to account; | 7 |
| "(5) Appoint a special fiduciary to take possession of the trust property and | 8 |
| administer the trust; | 9 |
| "(6) Suspend the trustee; | 10 |
| "(7) Remove the trustee as provided in § 19-707.6; | 11 |
| "(8) Reduce or deny compensation to the trustee; | 12 |
| "(9) Subject to § 19-710.12, void an act of the trustee, impose a lien or a | 13 |
| constructive trust on trust property, or trace trust property wrongfully disposed of and recover | 14 |
| the property or its proceeds; or | 15 |
| "(10) Order any other appropriate relief. | 16 |
| "§ 19-710.2. Damages for breach of trust. | 17 |
| "(a) A trustee who commits a breach of trust is liable to the beneficiaries affected for the | 18 |
| greater of: | 19 |
| "(1) The amount required to restore the value of the trust property and trust | 20 |
| distributions to what they would have been had the breach not occurred; or | 21 |

"(2) The profit the trustee made by reason of the breach. 1

"(b) Except as otherwise provided in this subsection, if more than one trustee is liable to 2
the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee 3
or trustees. A trustee is not entitled to contribution if the trustee was substantially more at fault 4
than another trustee or if the trustee committed the breach of trust in bad faith or with reckless 5
indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who 6
received a benefit from the breach of trust is not entitled to contribution from another trustee to 7
the extent of the benefit received. 8

"§ 19-710.3. Damages in absence of breach. 9

"(a) A trustee is accountable to an affected beneficiary for any profit made by the 10
trustee arising from the administration of the trust, even absent a breach of trust. 11

"(b) Absent a breach of trust, a trustee is not liable to a beneficiary for a loss or 12
depreciation in the value of trust property or for not having made a profit. 13

"§ 19-710.4. Attorney's fees and costs. 14

"In a judicial proceeding involving the administration of a trust, the court, as justice and 15
equity may require, may award costs and expenses, including reasonable attorney's fees, to any 16
party, to be paid by another party or from the trust that is the subject of the controversy. 17

"§ 19-710.5. Limitation of action against trustee. 18

"(a) A beneficiary may not commence a proceeding against a trustee for breach of trust 19
more than one year after the date the beneficiary or a representative of the beneficiary was sent 20
a report that adequately disclosed the existence of a potential claim for breach of trust and 21

informed the beneficiary of the time allowed for commencing a proceeding. 1

"(b) A report adequately discloses the existence of a potential claim for breach of trust 2
if it provides sufficient information so that the beneficiary or representative knows of the 3
potential claim or should have inquired into its existence. 4

"(c) If subsection (a) does not apply, a judicial proceeding by a beneficiary against a 5
trustee for breach of trust must be commenced within 5 years after the first to occur of: 6

"(1) The removal, resignation, or death of the trustee; 7

"(2) The termination of the beneficiary's interest in the trust; or 8

"(3) The termination of the trust. 9

"§ 19-710.6. Reliance on trust instrument. 10

"A trustee who acts in reasonable reliance on the terms of the trust as expressed in the 11
trust instrument is not liable to a beneficiary for a breach of trust to the extent the breach 12
resulted from the reliance. 13

"§ 19-710.7. Event affecting administration or distribution. 14

"If the happening of an event, including marriage, divorce, performance of educational 15
requirements, or death, affects the administration or distribution of a trust, a trustee who has 16
exercised reasonable care to ascertain the happening of the event is not liable for a loss resulting 17
from the trustee's lack of knowledge. 18

"§ 19-710.8. Exculpation of trustee. 19

"(a) A term of a trust relieving a trustee of liability for breach of trust is unenforceable to 20
the extent that it: 21

"(1) Relieves the trustee of liability for breach of trust committed in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries; or

"(2) Was inserted as the result of an abuse by the trustee of a fiduciary or confidential relationship to the settlor.

"(b) An exculpatory term drafted or caused to be drafted by the trustee is invalid as an abuse of a fiduciary or confidential relationship unless the trustee proves that the exculpatory term is fair under the circumstances and that its existence and contents were adequately communicated to the settlor.

"§ 19-710.9. Beneficiary's consent, release, or ratification.

"A trustee is not liable to a beneficiary for breach of trust if the beneficiary, while having capacity, consented to the conduct constituting the breach, released the trustee from liability for the breach, or ratified the transaction constituting the breach, unless:

"(1) The consent, release, or ratification of the beneficiary was induced by improper conduct of the trustee; or

"(2) At the time of the consent, release, or ratification, the beneficiary did not know of the beneficiary's rights or of the material facts relating to the breach.

"§ 19-710.10. Limitation on personal liability of trustee.

"(a) Except as otherwise provided in the contract, a trustee is not personally liable on a contract properly entered into in the trustee's fiduciary capacity in the course of administering the trust if the trustee in the contract disclosed the fiduciary capacity.

"(b) A trustee is personally liable for torts committed in the course of administering a

trust, or for obligations arising from ownership or control of trust property, including liability for
violation of environmental law, only if the trustee is personally at fault.

"(c) A claim based on a contract entered into by a trustee in the trustee's fiduciary
capacity, on an obligation arising from ownership or control of trust property, or on a tort
committed in the course of administering a trust, may be asserted in a judicial proceeding
against the trustee in the trustee's fiduciary capacity, whether or not the trustee is personally
liable for the claim.

"§ 19-710.11. Interest as general partner.

"(a) Except as otherwise provided in subsection (c) or unless personal liability is
imposed in the contract, a trustee who holds an interest as a general partner in a general or
limited partnership is not personally liable on a contract entered into by the partnership after the
trust's acquisition of the interest if the fiduciary capacity was disclosed in the contract or in a
statement previously filed pursuant to the Uniform Partnership Act of 1996 (D.C. Law 11-234;
D.C. Code §§ 41-151.1 to 41-162.3) or the Uniform Limited Partnership Act of 1987 (D.C.
Law 7-49; D.C. Code §§ 41-401 to 41-499.26).

"(b) Except as otherwise provided in subsection (c), a trustee who holds an interest as a
general partner is not personally liable for torts committed by the partnership or for obligations
arising from ownership or control of the interest unless the trustee is personally at fault.

"(c) The immunity provided by this section does not apply if an interest in the
partnership is held by the trustee in a capacity other than that of trustee or is held by the
trustee's spouse or one or more of the trustee's descendants, siblings, or parents, or the spouse

of any of them.

"(d) If the trustee of a revocable trust holds an interest as a general partner, the settlor is personally liable for contracts and other obligations of the partnership as if the settlor were a general partner.

"§ 19-710.12. Protection of person dealing with trustee.

"(a) A person other than a beneficiary who in good faith assists a trustee, or who in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee's powers is protected from liability as if the trustee properly exercised the power.

"(b) A person other than a beneficiary who in good faith deals with a trustee is not required to inquire into the extent of the trustee's powers or the propriety of their exercise.

"(c) A person who in good faith delivers assets to a trustee need not ensure their proper application.

"(d) A person other than a beneficiary who in good faith assists a former trustee, or who in good faith and for value deals with a former trustee, without knowledge that the trusteeship has terminated is protected from liability as if the former trustee were still a trustee.

"(e) Comparable protective provisions of other laws relating to commercial transactions or transfer of securities by fiduciaries prevail over the protection provided by this section.

"§ 19-710.13. Certification of trust.

"(a) Instead of furnishing a copy of the trust instrument to a person other than a

beneficiary, the trustee may furnish to the person a certification of trust containing the following
information:

"(1) That the trust exists and the date the trust instrument was executed;

"(2) The identity of the settlor;

"(3) The identity and address of the currently acting trustee;

"(4) The powers of the trustee;

"(5) The revocability or irrevocability of the trust and the identity of any person
holding a power to revoke the trust;

"(6) The authority of cotrustees to sign or otherwise authenticate and whether
all or less than all are required in order to exercise powers of the trustee;

"(7) The trust's taxpayer identification number; and

"(8) The manner of taking title to trust property.

"(b) A certification of trust may be signed or otherwise authenticated by any trustee.

"(c) A certification of trust must state that the trust has not been revoked, modified, or
amended in any manner that would cause the representations contained in the certification of
trust to be incorrect.

"(d) A certification of trust need not contain the dispositive terms of a trust.

"(e) A recipient of a certification of trust may require the trustee to furnish copies of
those excerpts from the original trust instrument and later amendments which designate the
trustee and confer upon the trustee the power to act in the pending transaction.

"(f) A person who acts in reliance upon a certification of trust without knowledge that

the representations contained therein are incorrect is not liable to any person for so acting and
may assume without inquiry the existence of the facts contained in the certification. Knowledge
of the terms of the trust may not be inferred solely from the fact that a copy of all or part of the
trust instrument is held by the person relying upon the certification.

"(g) A person who in good faith enters into a transaction in reliance upon a certification
of trust may enforce the transaction against the trust property as if the representations contained
in the certification were correct.

"(h) A person making a demand for the trust instrument in addition to a certification of
trust or excerpts is liable for damages if the court determines that the person did not act in good
faith in demanding the trust instrument.

"(i) This section does not limit the right of a person to obtain a copy of the trust
instrument in a judicial proceeding concerning the trust.

"SUBCHAPTER 11. MISCELLANEOUS PROVISIONS.

"§ 19-711.1. Uniformity of application and construction.

"In applying and construing this uniform act, consideration must be given to the need to
promote uniformity of the law with respect to its subject matter among states that enact it.

"§ 19-711.2. Electronic records and signatures.

"The provisions of this chapter governing the legal effect, validity, or enforceability of
electronic records or electronic signatures, and of contracts formed or performed with the use
of such records or signatures, conform to the requirements of section 102 of the Electronic
Signatures in Global and National Commerce Act (15 U.S.C. § 7002) and supersede, modify,

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| and limit the requirements of the Electronic Signatures in Global and National Commerce Act. | 1 |
| "§ 19-711.3. Application to existing relationships. | 2 |
| "(a) Except as otherwise provided in this chapter, on the effective date of this chapter: | 3 |
| "(1) This chapter applies to all trusts created before, on, or after its effective | 4 |
| date; | 5 |
| "(2) This chapter applies to all judicial proceedings concerning trusts | 6 |
| commenced on or after its effective date; | 7 |
| "(3) This chapter applies to judicial proceedings concerning trusts commenced | 8 |
| before its effective date unless the court finds that application of a particular provision of this | 9 |
| chapter would substantially interfere with the effective conduct of the judicial proceedings or | 10 |
| prejudice the rights of the parties, in which case the particular provision of this chapter does not | 11 |
| apply and the superseded law applies; | 12 |
| "(4) Any rule of construction or presumption provided in this chapter applies to | 13 |
| trust instruments executed before the effective date of the chapter unless there is a clear | 14 |
| indication of a contrary intent in the terms of the trust; and | 15 |
| "(5) An act done before the effective date of the chapter is not affected by this | 16 |
| chapter. | 17 |
| "(b) If a right is acquired, extinguished, or barred upon the expiration of a prescribed | 18 |
| period that has commenced to run under any other statute before the effective date of the | 19 |
| chapter, that statute continues to apply to the right even if it has been repealed or superseded." | 20 |
| Sec. 3. Conforming amendments to Title 28 of the District of Columbia Code. | 21 |

(a) The table of contents of Subtitle II of Title 28 of the District of Columbia Code is amended by deleting "Chapter 47. Uniform Prudent Investor Act".

(b) Chapter 47 of Subtitle II of Title 28 of the District of Columbia Code is repealed.

Sec. 4. Fiscal impact.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 5. Effective date.

This act shall take effect after approval by the Mayor (or in the event of a veto by the Mayor, override of the veto by the Council), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.